



BILLING CODE 6717-01-P
DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Trafalgar Power, Inc.

Project No. 9709-064

Notice of Termination of License (Minor Project) by Implied Surrender and Soliciting Comments and Protests

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

- a. Type of Proceeding: Termination of license by implied surrender
- b. Project No.: 9709-064
- c. Date Initiated: April 7, 2014
- d. Licensee: Trafalgar Power, Inc.
- e. Name and Location of Project: The Herkimer Hydroelectric Project is located on the West Canada Creek, in Herkimer County, New York.
- f. Filed Pursuant to: Standard Article 17
- g. Licensee Contact Information: Mr. Peter Michaud, Regulatory Affairs Manager Algonquin Power & Utilities Corp., 2845 Bristol Circle, Oakville, Ontario, Canada L6h-7H7, (905)465-4516.
- h. FERC Contact: Krista Sakallaris, (202)502-6302, Krista.Sakallaris@ferc.gov
- i. Deadline for filing comments and protests is 30 days from the issuance of this notice by the Commission. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under <http://www.ferc.gov/docs-filing/efiling.asp> and filing instructions in the Commission's Regulations at 18 CFR section 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at <http://www.ferc.gov/help/submission-guide/user-guide.pdf>. In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these "qualified documents" at <http://www.ferc.gov/docs->

[filing/efiling/filing.pdf](#). You must include your name and contact information at the end of your comments. Please include the project number (9709-064) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ-12, 888 First Street, NE, Washington, DC 20426.

j. Description of Project Facilities: (1) a timber crib dam consisting of: (a) a 9-foot-high, 95-foot-long section with a crest elevation of 420.0 feet m.s.l.; and (b) a 12-foot-high, 145-foot-long section with a crest elevation of 419.2 feet m.s.l.; (2) a reservoir with a surface area of 19 acres, a storage capacity of 163 acre-feet, and a normal water surface elevation of 420.5 feet m.s.l.; (3) timber flashboards; (4) an intake structure; (5) a reinforced concrete and steel powerhouse containing four generating units with a capacity of 400 kW each and a 110 kW minimum flow generator at the base of the dam for a total installed capacity of 1,710 kW; (6) a 50-foot-long, 13.2 kilovolt transmission line; and (7) appurtenant facilities.

k. Description of Proceeding: The licensee is in violation of Article 17 of its license, issued April 22, 1987, which states in part: if the Licensee shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission, the Commission will deem it to be the intent of the Licensee to surrender the license.

Commission records indicate that the four main generating units stopped operating in 2004 and the fifth minimum flow-generating unit became inoperable in 2006. Additionally, severe floods occurring in June 2006 and April 2011 washed out the flashboards, causing debris damage, which the licensee has not repaired.

The Commission's Division of Dam Safety and Inspections last inspected the project on June 12, 2012. The inspection found that the licensee does not have plans to restore the non-operating generating units, but is committed to maintaining the dam in a safe condition. The licensee filed with the Commission a Dam Safety Surveillance and Monitoring Report on March 10, 2014. The report states that the licensee must seek approval from a bankruptcy court before receiving any funds for project repairs.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the Docket number (P-9709-064) excluding the last three digits in the docket number field to access the notice. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free

1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments and Protests -- Anyone may submit comments or protests in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.211. In determining the appropriate action to take, the Commission will consider all protests filed. Any protests must be received on or before the specified deadline date for the particular proceeding.

o. Filing and Service of Responsive Documents -- Any filing must (1) bear in all capital letters the title "COMMENTS or "PROTEST," as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments or protests should relate to project works which are the subject of the termination of license. A copy of any protest must be served upon each representative of the licensee specified in item g above. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. Agency Comments – Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: April 7, 2014.

Kimberly D. Bose,
Secretary.

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